

APPEAL, CLOSED, HABEAS, INMATE, MULLIKIN

**U.S. District Court
Alabama Middle District (Opelika)
CIVIL DOCKET FOR CASE #: 3:05-cv-00433-MEF-WC
Internal Use Only**

Burden v. Campbell et al (INMATE2)
Assigned to: Hon. Chief Judge Mark E. Fuller
Referred to: Honorable Wallace Capel, Jr
Case in other court: 07-13790-I
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 05/09/2005
Date Terminated: 07/12/2007
Jury Demand: None
Nature of Suit: 530 Habeas Corpus
(General)
Jurisdiction: Federal Question

Plaintiff

Anthony Burden

represented by **Robert Allen Ratliff**
Robert A. Ratliff, PC
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Mobile, AL 36602
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Donal Campbell
Director; Alabama Dept. of Corrections

represented by **John McGavock Porter**
Office of the Attorney General
Alabama State House
11 South Union Street
Montgomery, AL 36130-0152
334-242-7420
Fax: 242-2848
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Troy King
*The Attorney General of the State of
Alabama*

represented by **John McGavock Porter**
Office of the Attorney General
Criminal Appeals
Alabama State House
11 South Union Street

Montgomery, AL 36130-0152
334-242-7420
Fax: 242-2848
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LEAD ATTORNEY
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Defendant

James DeLoach
Warden

represented by **John McGavock Porter**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

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Date Filed	#	Docket Text
05/09/2005		(Court only) ***Staff Attorneys added as Interested Party. Assignment of Staff Attorney Mullikin, ***Set Inmate and Staff Attorney Flags (cs) (Entered: 05/10/2005)
05/09/2005	<u>1</u>	PETITION for Writ of Habeas Corpus (Filing fee \$ 5.00, Receipt #106268) filed by Anthony Burden.(cc,) (Entered: 05/11/2005)
05/09/2005	<u>2</u>	NOTICE of Appearance by Robert Allen Ratliff on behalf of Anthony Burden (cc,) (Entered: 05/11/2005)
05/13/2005	<u>3</u>	AMENDED PETITION by Anthony Burden. Amendment to <u>1</u> Petition for Writ of Habeas Corpus. (cc,) (Entered: 05/13/2005)
05/13/2005	<u>4</u>	MEMORANDUM in Support re <u>3</u> Amended Petition filed by Anthony Burden. (cc,) (Entered: 05/13/2005)
05/19/2005	<u>5</u>	ORDER TO ANSWER habeas petition within 20 days of service on the Attorney General. Copy mailed to petitioner; mailed CMRRR w/copies of petition, amended petition and memorandum in support to Warden DeLoach & Attorney General for the State of Alabama.Signed by Judge Vanzetta P. McPherson on 5/19/2005. (cc,) (Entered: 05/19/2005)
05/23/2005	<u>6</u>	Return Receipt Card showing service of petition signed by C. Bell for James DeLoach served on 5/20/2005, answer due 6/9/2005. (cc,) (Entered: 05/24/2005)
05/31/2005	<u>7</u>	Return Receipt Card showing service of petition signed by J. Taylor for Troy King served on 5/27/2005, answer due 6/16/2005. (cc,) (Entered: 06/01/2005)
06/08/2005	<u>8</u>	MOTION for Extension of Time to File Response to Federal Habeas Corpus Petition by James DeLoach, Troy King. (cc,) (Entered: 06/09/2005)

06/09/2005	●	AO FORM 85 mailed to counsel for James Deloach, Troy King (cc,) (Entered: 06/09/2005)
06/15/2005	● <u>9</u>	ORDER granting <u>8</u> Motion for Extension of Time to Answer; Answer due from James Deloach on 6/22/2005 and Troy King on 6/22/2005. Signed by Judge Vanzetta P. McPherson on 6/15/2005. (cc,) (Entered: 06/15/2005)
06/22/2005	● <u>10</u>	<i>RESPONDENTS'</i> ANSWER to Complaint by Donal Campbell, Troy King. (Attachments: # <u>1</u> Exhibit EXHIBIT A - EXCERPT FROM RECORD ON DIRECT APPEAL# <u>2</u> Exhibit EXHIBIT B - EXCERPT FROM RECORD ON DIRECT APPEAL# <u>3</u> Exhibit EXHIBIT C - EXCERPT FROM RECORD ON DIRECT APPEAL# <u>4</u> Exhibit EXHIBIT D - BRIEF OF ANTHONY BURDEN & ANDREW BURDEN# <u>5</u> Exhibit EXHIBIT E - CCA DECISION# <u>6</u> Exhibit EXHIBIT F - PETITION FOR WRIT OF CERT# <u>7</u> Exhibit SC ORDER DENYING BURDEN'S PETITION FOR WRIT OF CERT)(Porter, John) (Entered: 06/22/2005)
06/27/2005	● <u>11</u>	ORDER allowing petitioner until 7/13/2005 to file a response to <u>10</u> Answer to Petition . Signed by Judge Vanzetta P. McPherson on 6/27/2005. (cc,) (Entered: 06/27/2005)
07/12/2005	● <u>12</u>	MOTION for Extension of Time to File Response/Reply as to <u>10</u> Answer to Complaint,,, <u>11</u> Order by Anthony Burden. (Ratliff, Robert) (Entered: 07/12/2005)
07/14/2005	● <u>13</u>	ORDER (1) granting <u>12</u> Motion for Extension of Time to File Reply to respondents' response <u>12</u> ; (2) granting petitioner an extension from 7/13/2005 to 7/27/2005 to file his response, as further set out in order. Signed by Judge Vanzetta P. McPherson on 7/14/2005. (djj,) (Entered: 07/14/2005)
07/25/2005	● <u>14</u>	REPLY BRIEF re <u>10</u> Answer to Complaint,, filed by Anthony Burden. (Attachments: # <u>1</u> Affidavit)(Ratliff, Robert) (Entered: 07/25/2005)
07/25/2005	●	<u>14</u> Response construed as a MOTION to Amend <u>1</u> Petition for Writ of Habeas Corpus pursuant to order of 7/27/2005 (cc,) (Entered: 07/27/2005)
07/25/2005	●	Amendment to <u>1</u> Petition for Writ of Habeas Corpus by Anthony Burden. See <u>14</u> Response for pdf for this docket entry. (cc,) (Entered: 07/27/2005)
07/27/2005	● <u>15</u>	ORDER granting MOTION to Amend <u>1</u> Petition for Writ of Habeas Corpus; directing the respondents to that on or before 8/15/2005 to file a supplemental answer. Signed by Judge Vanzetta P. McPherson on 7/27/2005. (cc,) (Entered: 07/27/2005)
07/27/2005	●	Set Answer Deadlines pursuant to <u>15</u> Order: James Deloach 8/15/2005; Troy King 8/15/2005. (cc,) (Entered: 07/27/2005)
08/15/2005	● <u>16</u>	<i>RESPONDENTS' SUPPLEMENTAL ANSWER</i> to Complaint <i>TO AMENDED PETITION</i> by Donal Campbell, Troy King.(Porter, John) (Entered: 08/15/2005)

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08/17/2005	<u>17</u>	ORDER that on or before August 26, 2005 Respondents file a second supplemental answer which indicates the posture of Petitioner's ineffective assistance of appellate counsel claim in this court as a result of his failure to present the claim in state court. Signed by Judge Vanzetta P. McPherson on 8/17/2005. (cc,) (Entered: 08/17/2005)
08/17/2005		Set Supplemental Answer Deadline for James Deloach 8/26/2005 and Troy King 8/26/2005 pursuant to <u>17</u> order. (cc,) (Entered: 08/17/2005)
08/26/2005	<u>18</u>	RESPONDENTS' SECOND SUPPLEMENTAL ANSWER to Complaint TO AMENDED PETITION by Donal Campbell, Troy King.(Porter, John) (Entered: 08/26/2005)
09/06/2005	<u>19</u>	ORDER allowing petitioner until 9/22/2005 to file a response to <u>18</u> Supplemental Answer filed by Donal Campbell, Troy King . Signed by Judge Vanzetta P. McPherson on 9/6/2005. (cc,) (Entered: 09/06/2005)
11/29/2006		Due to the retirement of Judge Vanzetta P. McPherson this case has been reassigned to Judge Wallace Capel, Jr. as referral judge (NO PDF document attached to this notice). (cc,) (Entered: 11/29/2006)
06/22/2007	<u>20</u>	REPORT AND RECOMMENDATIONS that <u>1</u> Petition for Writ of Habeas Corpus filed by Anthony Burden be DENIED and that this case be DISMISSED with prejudice. Objections to R&R due by 7/5/2007. Signed by Judge Wallace Capel Jr. on 6/22/2007. (cc,) (Entered: 06/22/2007)
06/29/2007	<u>21</u>	OBJECTION to <u>20</u> Report and Recommendations of Magistrate by Anthony Burden. (Ratliff, Robert) (Entered: 06/29/2007)
07/12/2007	<u>22</u>	ORDER overruling petitioner's <u>21</u> Objection; adopting <u>20</u> Report and Recommendations; denying the petition for writ of habeas corpus relief filed by Anthony Burden; dismissing this case without prejudice. Signed by Judge Mark E. Fuller on 7/12/2007. (cc,) (Entered: 07/12/2007)
07/12/2007	<u>23</u>	FINAL JUDGMENT entered in favor of respondents and against petitioner; that this action is dismissed with prejudice; that the clerk of the court is directed to enter this document on the civil docket as a final judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure. Signed by Judge Mark E. Fuller on 7/12/2007. (Attachments: # <u>1</u> Civil Appeals Checklist)(cc,) (Entered: 07/12/2007)
08/10/2007	<u>24</u>	NOTICE OF APPEAL as to <u>23</u> Judgment, by Anthony Burden (Ratliff, Robert) (Entered: 08/10/2007)
08/10/2007		<u>24</u> MOTION for Certificate of Appealability by Anthony Burden. (dmn) (This document has no pdf attached, see Doc. <u>24</u> for pdf.) (Entered: 08/14/2007)
08/10/2007		<u>24</u> Notice of Appeal construed as containing MOTION for Leave to Appeal in forma pauperis by Anthony Burden. See <u>24</u> Notice of Appeal for PDF. (dmn) (Entered: 08/16/2007)

08/14/2007	●	Transmission of Notice of Appeal and Certified Copy of Docket Sheet and Order to US Court of Appeals re <u>24</u> Notice of Appeal. (dmn) (Entered: 08/14/2007)
08/15/2007	● <u>25</u>	USCA Appeal Fees received \$ 455 receipt number 4602000138 re <u>24</u> Notice of Appeal filed by Anthony Burden (ydw,) Additional attachment(s) added on 8/16/2007 (ydw,). (Entered: 08/16/2007)
08/16/2007	● <u>26</u>	ORDER construing the <u>24</u> Notice of Appeal as containing a Motion to Proceed on Appeal in forma pauperis. Petitioner's motion to proceed on appeal in forma pauperis is DENIED; and the <u>24</u> Notice of Appeal in this cause is certified, pursuant to 28 U.S.C.A. 1915(a), as not taken in good faith. Signed by Judge Mark E. Fuller on 8/16/2007. (dmn) [Modified on 8/16/2007 to add the word "containing." (Entered: 08/16/2007)
08/16/2007	● <u>27</u>	ORDER that the Petitioner's Request for a Certificate of Appealability contained in the <u>24</u> Notice of Appeal is DENIED. Signed by Judge Mark E. Fuller on 8/16/2007. (dmn) (Entered: 08/16/2007)
08/17/2007	● <u>33</u>	RECEIVED TRANSCRIPT REQUEST re: <u>24</u> Notice of Appeal from pro se appellant Anthony Burden, with following notation: "No transcript is required for appeal purposes" (ydw,) (Entered: 11/06/2007)
08/21/2007	●	USCA Case Number 07-13790-I for <u>24</u> Notice of Appeal filed by Anthony Burden. (dmn) (Entered: 08/21/2007)
08/21/2007	● <u>28</u>	Request for Original Papers By USCA Eleventh Circuit re Appeal No. 07-13790-I, <u>24</u> Notice of Appeal. (dmn) (Entered: 08/23/2007)
08/23/2007	● <u>29</u>	Original Papers Transmitted to USCA Appeal No. 07-13790-I. (dmn) (Entered: 08/23/2007)
08/31/2007	● <u>30</u>	Acknowledgement of Receipt of Original Papers from USCA re 07-13790-I, <u>24</u> Notice of Appeal (ydw,) (Entered: 09/06/2007)
10/26/2007	● <u>31</u>	ORDER of USCA as to <u>24</u> Notice of Appeal filed by Anthony Burden, 11th Circuit Appeal No. 07-13790-I; Because appellant has satisfied the standard set forth by the U.S. Supreme Court in Slack v. McDaniel. 529 U.S. 473, 120 S.Ct. 1595, 146 L.Ed.2d 542 (2000), appellant's motion for a certificate of appealability, construed from his notice of appeal, is GRANTED on the following issue(s) only: Whether the district court erred in determining that appellant failed to exhaust in state court his claim that a juror committed misconduct by failing to disclose a personal relationship she had with the family of the victim by stating the claim in federal terms?/s/ R. Lanier Anderson, UNITED STATES CIRCUIT JUDGE (ydw,) (Entered: 11/06/2007)
10/26/2007	● <u>32</u>	Original Papers (One Volume) Received from USCA 11th Circuit Appeal No. 07-13790-I, <u>24</u> Notice of Appeal. (ydw,) (Entered: 11/06/2007)
02/28/2008	●	Certificate of Readiness to US Court of Appeals re 07-13790-AA, <u>24</u> Notice of Appeal (ydw,) (Entered: 02/28/2008)

